



## QUESTIONS AND ANSWERS FOR PEOPLE STOPPING ROADSIDE

### Contents

#### **Negotiated Stopping** PAGES 3-8

What is Negotiated Stopping?

What does Negotiated Stopping Involve?

What are the benefits of Negotiated Stopping?

Does Negotiated Stopping Effect your rights?

How long does a negotiated stopping agreement usually last?

What happens with welfare assessments on a Negotiated Stopping camp?

What happens if you have a welfare need while you have a Negotiated Stopping agreement?

What happens if you have welfare needs on a non- negotiated camp?

Does Negotiated Stopping give the local authority powers to move you out of the area when your camp is over?

Are people expected to vacate the area after a negotiated stopping agreement expires?

Do the police enforce more readily against people who have had a negotiated stopping agreement in place as opposed to people who have not?

How is Negotiated Stopping being used?

Where has Negotiated Stopping been tried and what happened?

Has there been any research done into Negotiated Stopping?

Where did Negotiated Stopping come from, who developed it and who owns it?

What else do we need to do to improve accommodation for Gypsies and Travellers?

Have Travellers been involved in Negotiated Stopping?

What are the alternatives to Negotiated Stopping?

**Transit Sites- PAGE 9**

What rights do you have on a Transit Site?

What rights do you have if directed to a Transit Site?

Is there and research into Transit Sites?

**Legal Briefing- PAGES 10-13**

What are the current legislative powers of Local Councils?

- Injunctions to protect land from unauthorised encampments
- Possession Orders
- Local Byelaws
- Power of local authority to direct unauthorised campers to leave land

What are the current legislative powers of Police?

- Power of the Police to direct unauthorised campers to leave land
- Police Powers to direct trespassers to an alternative site

**Contact details- PAGE 14**

## **Negotiated Stopping**

### **What is Negotiated Stopping?**

Negotiated Stopping involves Local Authority officers making an agreement with Gypsies and Travellers on unauthorised encampments. The agreement allows Travellers to stay either on the land they are camped on or move to a bit of land more suitable for all parties. The length of the agreement can also vary from 2 weeks to several months but tend to be around 28 days. The agreement is a local one and will vary but has so far included Travellers agreeing to leave sites clean and not make too much noise and the Local Authority providing waste disposal and toilets, sometimes showers and water too.

Negotiated Stopping is always a locally agreed solution so might look abit different in different locations. For Negotiated Stopping to work it has to involve local authorities negotiating with roadside Travellers. They should be talking to and consulting roadside Travellers and working out solutions.

Negotiated Stopping only exists in Leeds at the moment but we think it could work elsewhere. You can ask your local council to try Negotiated Stopping. It starts with a conversation.

**FIND OUT MORE:** <https://www.negotiatedstopping.co.uk/what-is-negotiated-stopping>

### **What does Negotiated Stopping Involve?**

It is a voluntary agreement between two parties. You can negotiate to stay where you are pulled up or you can be offered to go to a different location, more appropriate location.

On a Negotiated Stopping Camp you will:

- Be given a period of time to stay, undisturbed – upto 3 months
- Be offered services and support if you need them
- Be given toilets and rubbish disposal
- Be asked to sign an agreement about behaviour, rubbish and damage

### **What are the benefits of Negotiated Stopping?**

Staying in one place for longer without being threatened by eviction, has meant:

- Getting registered with a doctor and access to other local services and support
- Children getting school places
- Having access to rubbish facilities, toilets, running water and showers which is better for your health
- Reduced complaints and unfriendliness from local neighbours

- Changing people's view of roadside camps - this might help get permanent sites passed as it changes people's views on Travellers and reduces the amount of media coverage about camps (in Leeds it led to a new 9 pitch site)

For families living permanently or temporarily roadside being offered negotiation is a very different experience to the usual aggressive and 'zero tolerance' approach where the authorities do all they can to shift the camp as quickly as possible. When you are able to stay on a camp for a specified period of time you can relax and get on with your life. That might include being able to get the children to school, getting registered at the doctors, being able to find work and keeping up with friends and family. Where the agreement involves provision of household waste disposal and toilets there has been a positive impact on health.

Families involved in Negotiated Stopping have said the police behave differently when a camp is subject to a Negotiated Stopping agreement. They can be more accepting of the Travellers' rights to be there, visit less and are more friendly. Families also said that hate crime against them was treated more seriously when on a Negotiated Camp.

In Leeds, local Traveller organisations and public services have been able to establish outreach to the camps from health visitors (for children under 5), a nurse (working with anyone with a medical need and helping people get access to GPs and other services and support), Leeds GATE staff (offering support with benefits, accommodation, health, mental health, work and anything else you need).

## **Does Negotiated Stopping affect your rights?**

No, Negotiated Stopping is a local policy which local authorities can choose to take on. It doesn't affect the law or your rights. Unfortunately there aren't many laws to protect roadside families, so negotiated stopping offers local authorities who want to work with Travelling communities a way to do this now, without waiting for the law to change.

You should always be offered a welfare assessment if on public authority land and Negotiated Stopping doesn't change that.

There may be some things you have to agree to in a Negotiated Stopping agreement such as not leaving rubbish or making too much noise, if you don't stick to this agreement the council will probably evict you from the Negotiated Stopping place – that would only affect the family breaking the agreement and only affect your ability to stay on that camp, not the rest of the area.

## **How long does a negotiated stopping agreement usually last?**

In Leeds the formal policy states that negotiated stopping will be offered for periods of up to 28 days. This keeps the policy clear of any need for planning permission. However there have been instances of three months and over.

## **What happens with welfare assessments on a Negotiated Stopping camp?**

The local authority has a duty to deliver welfare assessments on all roadside families. Being on a Negotiated Stopping camp doesn't change this duty or your rights.

## **What happens if you have a welfare need while you have a Negotiated Stopping agreement?**

This is up to the local authority. They may choose to extend your stay based on your welfare needs – this is more likely to happen if you have met the terms of your agreement (e.g.- kept the ground clean).

## **What happens if you have welfare needs on a non- negotiated camp?**

Your welfare needs are gathered by the local authority Gypsy Liaison Officers. You have the right not to provide this information. They will normally ask you who is present on a camp, vehicle registrations, any needs the children have, any needs you have. They may then choose to tolerate your camp based on this information. They may choose to provide facilities to you – e.g.- toilets. However, they are not obliged to do this and they may choose to evict you.

## **Does Negotiated Stopping give the local authority powers to move you out of the area when your camp is over?**

No.

There is nothing in a negotiated stopping policy or agreement which allows an authority to stop a new encampment being formed, or which enables an authority to move the encampment out of the area.

If the area is subject to an injunction, or if the area has a Transit site and police are prepared to use Sec62 CJPOA – they may attempt to oblige the camp to move to that transit site, [these powers already exist and are already being used against roadside Travellers](#).

## **Are people expected to vacate the area after a negotiated stopping agreement expires?**

No, but they may be made aware that the particular piece of ground might not be available for a fixed period. The people on the camp will decide if they want to leave the area or form another unauthorised encampment and request a negotiated agreement again. – it's up to them. If they wanted to, they could also ask the council if there is anywhere else they can direct them to where they will be able to stay under a negotiated agreement.

## **Do the police enforce more readily against people who have had a negotiated stopping agreement in place as opposed to people who have not?**

No, there is no evidence of this.

## **Where has Negotiated Stopping been tried and what happened?**

- In Leeds Negotiated Stopping has been implemented city wide and both Travellers and local authorities have reported seeing benefits and saving money.
- Elsewhere, In the UK, the Northern Ireland Housing Executive also has a policy of 'cooperation' for unauthorised encampments. On their website, they say: 'We do recognise that there will always be exceptional cases with special circumstances which would require a different approach. Our co-operation policy is not a substitute for permanent or transit sites.'
- In Hackney, prior to the 2012 Olympics a policy of tolerating temporary encampments was in operation and worked very well. Unfortunately this policy has disappeared since the Olympic Park development.
- One instance of Negotiated Stopping in Rochdale has run for an extended period of time (over two years) and continues to date. However, for the rest of the area, Rochdale has successfully applied for a wide injunction.

## **Has there been any research done into Negotiated Stopping?**

When Negotiated Stopping policy was put in place in Leeds it was first [reviewed by Real Improvement](#) in 2016.

The policy in Leeds was reviewed again in 2017 by [De Montford University](#) as mentioned above.

## **Where did Negotiated Stopping come from, who developed it and who owns it?**

Government guidance has for a number of years suggested that local authorities should seek to 'tolerate' Gypsy and Traveller encampments. However with no further guidance, or pressure to do so, many authorities have instead operated a 'Zero-tolerance' policy which seeks to remove roadside camps at the earliest opportunity.

But for generations there have been different, informal, methods of managing or tolerating unauthorised encampments via negotiation. Many local authority Gypsy and Traveller department officers know local families very well and may informally agree that families can stay for very short periods of time before court processes will be initiated. There may, or may not, be acknowledgement from local council leaders that this informal agreement with families on unauthorised encampments takes place.

In Norfolk there was a proposal to operate a 'Frankham Bond' (named after Eli Frankham) whereby travelling families would pay a bond to the council which would be forfeit if any camp they had been on required expenditure to clean up after they leave. Unfortunately this policy has never taken off.

The London Borough of Hackney operated a policy of 'temporary stopping places' which was very successful. However the policy was suspended during the development of the Olympic Park and has never been reinstated.

The negotiated stopping journey in Leeds began with the situation where local Gypsy and Traveller families were being continually moved via court process or police use of sec 61 CJPOA powers. The fact that these families were continuous residents of the city without any permanent site provision available began to persuade local magistrates, and public opinion, that the situation was unfair. The court processes were slowed down considerably and a local Mother, Kim Moloney, was having increasing success in her legal challenge that the council's behaviour was in breach of her human rights. **The local authority began to recognise that things could not go on as they were.**

A council Scrutiny Panel was set up in 2009 where local roadside families gave evidence to the council, as did Leeds GATE (a local Traveller organisation). In its evidence Leeds GATE recommended that the authority should operate a policy of 'negotiated stopping'. The main recommendation of the Scrutiny Enquiry's report was that the authority should 'pilot' negotiated stopping.

The policy has been a success and has been adopted by the council as part of a range of approaches to meeting local Gypsy and Traveller housing need (the other approaches include building more sites). The policy was evaluated in 2017 by De Montford University who found that the policy increased community cohesion and produced likely costs savings to the council and the Police of up to £238,000 per year.

*You own Negotiated Stopping.* You can ask your local council if they have heard of Negotiated Stopping, show them this document and see if they want to work with you to find an alternative solution to eviction. Leeds GATE will help you if you want to do this.

***Negotiated Stopping was inspired from how people have negotiated stopping places in the past to find a better solution today and based in the belief that families have the right to travel and there are better solutions to the ones on the table – eviction and injunction.***

## What else do we need to do to improve accommodation for Gypsies and Travellers?

**Negotiated Stopping is only one part of the picture there is lots more to do!**

- We need to keep campaigning for more sites so that anybody that wants to live on a site can – these should be council and private sites
- We need to keep challenging the government on their definitions of Travellers – a Traveller isn't only someone that travels
- We need to keep challenging the laws that we have now and how they are used – this could be through a lawyer, an advocate or by campaigning
- We need to change the public's view on camps, sites and Travellers in general through putting out our own stories

## Have Travellers been involved in Negotiated Stopping?

Yes, Leeds based Gypsies and Travellers have been involved throughout the development of the Negotiated Stopping policy, both as roadside families directly involved in the issues, and as members of the Leeds GATE Executive Board. Much negotiation now takes place directly between roadside families and local authority officers who operate the policy.

## What are the alternatives to Negotiated Stopping?

Negotiated Stopping only exists currently in Leeds, across the rest of the country these other solutions are being used:

*Local authority and police powers* – eviction, including Sec61/62 (see more information below), are being used to move on unauthorised encampments, usually as quickly as possible. In some local authority areas, where there is a pragmatic Gypsy Liaison Officer, camps may be in place for a week or two before these powers are applied. However those on the camps enjoy no rights or services.

*Transit sites* are being offered in some places, increasingly according to the Sandwell Model, see below.

*Injunctions* are being granted across large swathes of land across England – meaning you cannot return there without being criminalised.

The Government recently conducted a consultation about enforcement powers. We put forward our suggestions around Negotiated Stopping but they have been largely ignored. **One of the current suggestions is to make trespass a criminal offence** - what is known as the 'Irish Solution'. **This would have devastating effects on roadside families.** We are passionate about ensuring there is a positive solution being put forward – about how we can all work together - and a different view being heard to that of criminalising people and making injunctions.

## **How do Transit Sites Work?**

### **What rights do you have on a Transit Site?**

Transit sites are built permanent sites, where you are able to stay for a period of up to 3 months, no longer. A local authority will need to apply for Planning Permission to build a transit site. Some transit sites are pitches on permanent sites, others are located separately in semi industrial areas. Transit pitches are often occupied by families who really want a permanent pitch but there aren't any available.

In Sandwell a Transit site has been built and police have been using their powers under Section 62A of the CJPOA to direct people on roadside camps to it. If the people on the camp refuse to move to the transit site, they will be directed to leave the authority area. The Sandwell model involves a large piece of ground covered in gravel and with shared temporary toilet blocks. There is a £250 deposit payable by each family and a rental charge of £80 per week, per caravan (equivalent to the rent on a three bed council house in Leeds). The Sandwell example is seen as a success despite the fact that it has only been used once in one year and many families have chosen to leave the district rather than to go there. This shows that rather than facilitate Gypsies and Travellers to stay in the area, this site is intended to oblige people to leave the area.

### **What rights do you have if directed to a Transit Site?**

If you are directed by the Police or Local Authority to a transit site, you do not have to go there but if you do not go there you will normally be told to leave the authority area. A combination of transit sites and area wide injunctions being granted to local authorities is making it harder and harder to live on the roadside.

### **Is there any research into Transit Sites?**

This JRF research by Dr Jo Richardson of De Monthford University involves some mention of Transit sites

<http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/GypsyTravellerSitesDec16.pdf>

## **Legal Briefing**

### **What are the current legislative powers of Local Councils?**

The law about unauthorised encampments can be confusing. We have produced a summary of the current local authority and police powers available.

#### **Injunctions to protect land from unauthorised encampments**

- Local Authority applies to a court to put these in place
- Stop you staying on certain bits of ground and can be across a whole district.
- They are made against named families or “persons unknown” which they can apply to anybody
- Breaking an injunction is a criminal not a civil offence - you can get a fine or a prison sentence

If a local site is particularly vulnerable and intelligence suggests it is going to be targeted for unauthorised camping, causing disruption to others going about their day-to-day lives, local authorities could consider applying to the courts for a pre-emptive injunction preventing unauthorised camping (and/or protests) in a defined geographical area. In practice an increasing number of authorities are applying for, and being granted, injunctions across whole districts or boroughs. This has already impacted on Leeds GATE members and other Gypsies and Travellers in Warwickshire, Essex and Rochdale for example. Injunctions are usually granted against named individuals and ‘persons unknown’ which can be applied to anyone. Sandwell Council has published the names of members of a family whom an injunction has been granted against on its website. To break an injunction is a criminal offence punishable by a fine or a prison sentence.

#### **Possession Orders**

This is the method many Local Authorities use to shift Gypsy and Traveller camps

- If you are on local authority land they must offer you the opportunity to take part in a welfare assessment before they start this action
- Local authority or a landowner applies to the County Court in that area to recover land from trespassers, this is a civil not a criminal matter
- They have to give minimum two days’ notice of a possession hearing – sometimes as the courts are busy it takes longer than this
- Sometimes local authorities will wait to put in their paperwork for a possession order if a camp is working well or they know the people– they will let them have a week or so before applying for possession

A possession order under Part 55 of the Civil Procedure Rules can be obtained by both local authorities and private landowners who require the removal of trespassers from property including land. The claim must be issued in a County Court which has jurisdiction over the affected land/property. A claim can be issued in the High Court in exceptional circumstances where there is a risk of public disturbance and harm to persons or property that requires immediate determination. Local authorities should also be prepared to advise private landowners about their rights to recover land from trespassers through the courts or using common law powers. It is also possible that local authorities may be called upon to assist other Government bodies such as the Highways Agency. The “ordinary” possession order may be used regardless of whether the property is a building or open land, and regardless of the type of squatter or trespasser. A possession order may be secured quickly against trespassers (a minimum of 2 days’ notice before a hearing can take place if the property is non-residential, or 5 days for residential property).

This is the most usual method that Local Authorities use to shift Gypsy and Traveller people from unauthorised encampments. A possession order can be contested in court, but this can make people from the camp more liable to have court costs awarded against them as they are identified. However, if they obtain legal aid, that may provide costs protection.

**Local Byelaws** - Section 235 of the Local Government Act 1972 enables the local authority to make byelaws for the good rule and governance of the whole or any part of the district or borough and for the suppression and prevention of nuisances. Such byelaws include noise in streets and other public places, urinating in a public place etc. Section 150 (2) of the Police Reform and Social Responsibility Act 2011 enables local authorities to attach powers of seizure and retention of any property (which could include tents and sleeping equipment) in connection with any breach of a byelaw made under section 235 and enables the courts to order forfeiture of any such property on conviction for contravention of any byelaw.

Local authorities could use these byelaws as a pre-emptive tool to prohibit encampments. If the local authority considers it has an area at risk of encampments. This will save having to go through costly injunctions after any encampments have been set up. Local authorities should consider this option as part of their local risk assessment and mitigation plan; as such a byelaw would still be required to go through the normal processes for amending or introducing new byelaws. Westminster City Council has already introduced such a byelaw, which came into force for a specified area around Parliament Square on 30 March 2012

#### **Power of local authority to direct unauthorised campers to leave land**

- This gives the local authority the power to direct caravans off a piece of land where they are living without consent of the owner
- They must offer you the opportunity to take part in a welfare assessment before they start this action
- If you don’t leave the local authority can apply to a magistrates’ court to remove the vehicles and people from the land

- It is the local authority (or someone they employ – this could be a security firm) that have to remove you
- The police might be asked to attend to observe
- If you don't move all of the vehicles odd or if you return within 3 months to that piece of ground, then it becomes a criminal offence and can be charged with fines of up to £1000

Where people are residing in vehicles (including caravans) on land, section 77 of the Criminal Justice and Public Order Act 1994 gives local authorities in England and Wales power to give a direction to leave the land. The power applies to land forming part of a highway, any other unoccupied land or occupied land on which people are residing without the consent of the occupier. It is an offence to fail to comply with such a direction. If the direction is not complied with, the local authority can apply to a magistrates' court for an order requiring the removal of vehicles and any occupants from the land (section 78). Responsibility for eviction lies with the local authority. Officers or agents of the local authority may use reasonable force to evict. It is usually recommended that the police attend such evictions in order to prevent a breach of the peace. Please note this power does not apply to other campers i.e. those sleeping under canvas.

## **What are the current legislative powers of Police?**

### **Sections 61- 62 of Criminal Justice and Public Order Act 1994**

This is the power most often used if the police decide they have grounds to remove a camp. Pressure is often put on the police to use this power by local councillors, some local authorities etc. However, some police forces are reluctant to use this power in the understanding that unauthorised encampment is a housing issue which should be dealt with by the local authority.

This allows the police to direct trespassers to leave and to remove their property

The decision has to be taken by a senior officer and they have to answer these questions before they can go ahead:

- Are there two people or more?
- Do they plan to live there?
- Has the land owner already asked them to leave and followed the processes above?
- Have they caused damage?
- Have they been abusive?
- Have they got 6 or more vehicles (including caravans)?

**If you don't leave, you may be arrested and your vehicles may be impounded.**

**If you don't leave or if you return with 3 months to the same bit of ground this becomes a criminal offence.**

**Power of the Police to direct unauthorised campers to leave land** - Should trespassers refuse to adhere to a request to leave the land, sections 61- 62 of Criminal Justice and Public Order Act 1994 give the police discretionary powers to direct trespassers to leave and remove any property or vehicles they have with them. The power applies where the senior police officer reasonably believes that two or more people are trespassing on land with the purpose of residing there, that the occupier has taken reasonable steps to ask them to leave, and that any of the following apply: a) that any of the trespassers have caused damage to land or property; b) that any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier, a member of the occupier's family or an employee or agent of the occupier; or c) that the trespassers have between them six or more vehicles on the land. Failure to comply with the direction by leaving the land as soon as reasonably practicable is an offence. Similarly, it is an offence for a trespasser who has left the land in compliance with an order to re-enter it as a trespasser within three months of the direction being given.

**Police Powers to direct trespassers to an alternative site** - Police have powers under sections 62 A-E of Criminal Justice and Public Order Act 1994 to direct both trespassers and Travellers to leave land and remove any vehicle and property from the land where there is a suitable pitch available on a caravan site elsewhere in the local authority area.

This power allows the police to direct you to leave and remove any vehicles if there is a suitable pitch available for you on a site in the local authority area.

This power has been used by police to direct people on camps to move to a transit site. If the people on the camp refuse to move to the transit site, they will be directed to leave the authority area.

This is happening in Sandwell where a Transit Site has been built. This is a large piece of ground covered in gravel and with shared temporary toilet blocks. There is a £250 deposit payable by each family and a rental charge of £80 per week, per caravan. The Sandwell example is seen as a success despite the fact that it has only been used once in one year and many families have chosen to leave the district rather than to go there.

You can read more here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418139/150326\\_Dealing\\_with\\_illegal\\_and\\_unauthorised\\_encampments\\_-\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418139/150326_Dealing_with_illegal_and_unauthorised_encampments_-_final.pdf)

This document was produced by Leeds GATE. If you have any more questions, the team at Leeds GATE would be happy to chat with you. Call 01132402444 or email [info@leedsgate.co.uk](mailto:info@leedsgate.co.uk)

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